

SERVICE ANIMALS vs. ASSISTANCE ANIMALS

SERVICE ANIMAL (ADA)

- Service Animals have protections under the American with Disabilities Act (“ADA”) that applies to state and local government programs, services, activities, and facilities; to public accommodations; and to public services.
- Only animals that can be considered a service animal are dogs and miniature horses.
- Animal that is individually trained to do work or perform tasks for the benefit of an individual with a disability.
- Not considered a pet.
- Emotional support, well-being, comfort or companionship do not constitute work tasks as provided under the ADA.
- Only questions that can be asked: (1) Is this a service animal that is required because of a disability? (2) What work or tasks has the animal been trained to perform?
- Cannot ask the individual about the nature of the disability or request documentation that the individual has a disability.
- Cannot require documentation that the animal has been trained, licensed, or certified.
- There is no federally recognized certification for service animals.
- There are individuals and organizations that sell service animal certifications and registration documents online. These documents do not convey any rights under the ADA and the Department of Justice does not recognize them as proof that the animal is a service animal.
- Animal can only be denied access to the ADA-covered facility if (1) the animal is out of control and its handler does not take effective action to control it; (2) the animal is not housebroken; (3) or the animal poses a direct threat to the health or safety of others.

ASSISTANCE ANIMAL (FHA)

- Assistance Animals or Emotional Support Animals have protections under the Fair Housing Act (“FHA”) that apply exclusively in the context of housing.
- Animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person’s disability.
- Not considered pets.
- Animals do not have to be individually trained or certified.
- Owners cannot be charged “pet rent” or any other such fee.
- Considered a reasonable accommodation.
- Housing providers must consider: (1) Does the person seeking to use and live with the animal have a disability? (2) Does the person making the request have a disability-related need for an assistance animal?
- Animals allowed in all areas of the premises where persons are normally allowed to go.
- Providers are allowed to ask individuals with disabilities that are not readily apparent to submit reliable documentation of a disability and the person’s need for an assistance animal.
- Documentation may be provided by a physician, psychiatrist, therapist, or any other medical or mental health professional that has specific knowledge of the individual’s disability and disability related need for an assistance animal.
- There are individuals and organizations that sell service animal certifications and registration documents online. These documents do not convey any rights under the FHA and the Department of Justice does not recognize them as proof that the animal is an assistance animal.
- Each accommodation request requires an individual assessment.

If individuals believe that they have been discriminated against because of a disability or a failure to accommodate a disability, they should contact Human Relations at (605) 367-8745 or human.relations@siouxfalls.gov